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C O N F I D E N T I A L ANKARA 002770

SIPDIS

DEPARTMENT FOR EUR/SE

E.O. 12958: DECL: 05/17/2014

TAGS: [PREL](#) [MARR](#) [PHUM](#) [TU](#)

SUBJECT: GOT PREPARING FOR EVENTUAL ICC MEMBERSHIP,
STALLING ON ARTICLE 98

REF: 03 ANKARA 2317 AND PREVIOUS

Classified by Ambassador Eric S. Edelman; reasons 1.4 b and d.

[1](#)1. (U) Action request -- para 4.

[1](#)2. (U) Levent Sahinkaya, head of the MFA International Political Organizations Department, told us April 22 that the GOT intends to eventually become a signatory to the International Criminal Court (ICC). He denied press reports indicating that Turkey will join the ICC "in the next couple of weeks." He averred that the GOT is in no hurry, noting that while the EU has made it clear it wants Turkey to join the ICC, it does not require that Turkey join before beginning accession negotiations. He claimed not to know when Turkey would be prepared to join. Sahinkaya said the GOT is beginning to prepare the legal ground for becoming a party to the Rome Statute. For example, on May 7 Parliament adopted a package of constitutional amendments under which Article 38 of the Constitution will be revised to allow for the extradition of Turkish citizens under obligations required by ICC membership (if and when Turkey joins the body).

[1](#)3. (U) We asked Sahinkaya whether the GOT is now prepared to reach an Article 98 agreement with the U.S. One of the GOT arguments for not signing an Article 98 agreement has been that Turkey is not an ICC member. However, it remains clear that Turkey will become an ICC member at some point as its EU accession process goes forward. Sahinkaya said there is no change in the GOT position. The GOT is not willing to risk an Article 98 agreement becoming an issue for Turkey's EU candidacy. He said he understands that the U.S. has reached an Article 98 agreement with the UK, and asked if Embassy could provide him a copy of that agreement. He also asked for updates on U.S. efforts to reach agreement with the EU on the issue. (Note: The Ambassador raised the issue of an Article 98 agreement in a conversation with MFA U/S Ziyal May 12; Ziyal gave a noncommittal response. End Note).

[1](#)4. (C) Comment and Action Request: The GOT is still unwilling to engage with the U.S. on the Article 98 question (reftels), and is clearly wary of alienating the EU in the run-up to the December EU Summit. The decision to make reference to the ICC in the Constitution, before even joining the body, is clearly intended to impress the EU. Constitutional Committee Chairman Burhan Kuzu argued during deliberations over the constitutional amendments that there is no need to make reference to the ICC in the Constitution, regardless of whether Turkey is a member. Until such time as EU members begin to accept Article 98 agreements with the U.S. we cannot expect progress with Turkey. We would, therefore, welcome information on the status of Article 98 discussions with the EU and leading EU members.

EDELMAN